

**KEKER
VAN NEST
& PETERS**

MEMO ENDORSED

Keker, Van Nest & Peters LLP
633 Battery Street
San Francisco, CA 94111-1809
415 391 5400
keker.com

Elliot R. Peters
(415) 676-2273
epeters@keker.com

October 17, 2024

RECEIVED 10/22/24
Denied.
SO ORDERED

VIA ECF
LEWIS A KAPLAN, USDJ

10/22/24

Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007
KaplanNYSDChambers@nysd.uscourts.gov

Re: In re Customs and Tax Administration of the Kingdom of Denmark
(Skatteforvaltningen) Tax Refund Scheme Litigation, 18-md-2865 (LAK)
18CV4434, 18CV4833, 18CV7824, 18CV7827, 18CV7828, 18CV7829, 19CV1781,
19CV1783, 19CV1785, 19CV1788, 19CV1791, 19CV1792, 19CV1794, 19CV1798,
19CV1800, 19CV1801, 19CV1803, 19CV1806, 19CV1808, 19CV1809, 19CV1810,
19CV1812, 19CV1813, 19CV1815, 19CV1818, 19CV1865, 19CV1866, 19CV1867,
19CV1868, 19CV1869, 19CV1870, 19CV1871, 19CV1873, 19CV1893, 19CV1894,
19CV1895, 19CV1896, 19CV1898, 19CV1904, 19CV1906, 19CV1911, 19CV1918,
19CV1922, 19CV1924, 19CV1926, 19CV1928, 19CV1929, 19CV1930, 19CV1931,
19CV10713, 21CV5339

Dear Judge Kaplan,

Defendant Michael Ben-Jacob submits this request in response to Plaintiff Skatteforvaltningen's ("SKAT") Response to Defendants' Offers of Proof Regarding an Advice of Counsel Defense. ECF No. 1215. SKAT's Response makes clear that it is intending to itself offer certain evidence reflecting the involvement of attorneys, object to other such evidence, and request a limiting instruction with respect to other categories of such evidence, but it provides no further specificity. SKAT's straddling on these issues injects confusion as to the specific evidence it seeks to admit, exclude, or have admitted for a limited purpose, making the Court's job in assessing the admissibility of that evidence extremely difficult. Ben-Jacob thus respectfully requests that the Court order SKAT to submit an Offer of Proof making clear what evidence "pertaining to the presence or involvement of attorneys or legal advice received" it proposes to introduce at trial, what evidence it proposes be admitted only for a limited purpose, and what it proposes to exclude.